

REMARKS

The present Amendment is in response to the Examiner's Office Action mailed March 25, 2001. Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. Rejection Under 35 USC 112, Second Paragraph

The Examiner rejects claim 55 under 35 USC 112, Second Paragraph on the grounds that "a lumen" in that claim is confusing in view of the prior recitation of "a lumen" in the independent claim. Amendment to claim 55 is made to address this issue. Withdrawal of this rejection in view of the above amendment is respectfully requested.

II. Rejection Under 35 USC 103

The Examiner rejects claims 41, 44-51, 53, 56-62, 64, and 65 under 35 USC 103 as being rendered obvious by the combination of Buttner-Janz, et al. in view of Steffe.

As discussed in a telephone interview on April 30, 2002, Applicant amends the independent claims to specify that the anchoring elements have outer walls that extend substantially perpendicular from the plate member. By contrast, Buttner-Janz, et al. teaches triangular "teeth 5" and Steffe teaches cone shaped "projections or spikes 28." Neither reference, however, teach the anchor elements with the claimed shape which are designed to facilitate entry of the anchoring element into the end plate without splintering the vertebra. In view of this distinction, the Examiner is respectfully requested to withdraw this ground of rejection.

CONCLUSION

Applicants earnestly believe that they are entitled to a letters patent, and respectfully solicit the Examiner to expedite prosecution of this patent application to issuance. Should the Examiner have any questions, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,

Date:

May 2, 2002

By:

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In re Application)
Inventor(s): WILLIAMS, et al.)
Application No.: 09/644,026)
Filed: August 22, 2000)
Title: METHOD AND APPARATUS FOR)
INTERVERTEBRAL IMPLANT)
ANCHORAGE)

VERSION WITH MARKINGS SHOWING CHANGES MADE

Claims 41, 53, 55, and 66 have been amended as follows:

1 41. (Amended) An implantable device comprising:
2 first and second anchor plates sized to be positioned within an intradiscal section
3 between adjacent vertebra, the first and second anchor plates not being coupled to
4 each other, each anchor plate comprising a plate member and a plurality of
5 anchoring elements [extending] having outer walls that extend substantially
6 [vertically] perpendicular from the plate member which do not include threading for
7 screwing the anchoring elements into the vertebrae, a distal portion of the anchoring
8 elements comprising a lumen extending longitudinally within the anchoring
9 elements from a distal end of the anchoring elements, the anchoring elements being
10 introducable into an end plate of one of the adjacent vertebrae to secure the anchor
11 plate to the vertebrae; and
12 an intradiscal component positioned between and in contact with the first
13 and second anchor plates.

1 53. (Amended) A kit for forming an implantable device for insertion into an
2 intradiscal section between adjacent vertebrae, the kit comprising:
3 first and second anchor plates sized to be positioned within an intradiscal
4 section between adjacent vertebra, the first and second anchor plates not being
5 coupled to each other, each anchor plate comprising a plate member and a plurality
6 of anchoring elements [extending] having outer walls that extend substantially
7 [vertically] perpendicular from the plate member which do not include threading for
8 screwing the anchoring elements into the vertebrae, a distal portion of the anchoring
9 elements comprising a lumen extending longitudinally within the anchoring
10 elements from a distal end of the anchoring elements, the anchoring elements being

11 introducable into an end plate of one of the adjacent vertebrae to secure the anchor
12 plate to the vertebrae.

1 55. (Amended) A kit according to claim 53, wherein the lumen of at least one
2 of the anchoring elements [includes a lumen] is at least 0.5 mm in diameter.